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ABSTRACT

This statement supports and endorses the Intellectual Freedom policies of the American Library Association (ALA) as exemplified by the ALA Bill of Rights. The case of Pico v. Island Trees Free School District provides a legal precedent in support of the idea that decisions to remove materials from the school library cannot be based on personal ideological reasons; two randomly selected issues of the Newsletter on Intellectual Freedom and the "List of Embattled Books" in the September 1984 issue of Harper's Magazine demonstrate the current censorious attitude in schools and libraries; and a letter about the decision to perform the play "Sister Mary Ignatius Explains It All for You" serves as an example of support for free expression. In addition, the report of the Presidential Commission on Obscenity and Pornography published in 1970 supports the principle of access to a diversity of materials. The commission is urged not to recommend governmental restriction on access to materials of any kind and to recommend the elimination of existing restrictions on the content of materials. Two references are provided, and appendices include selected pages from the Newsletter on Intellectual Freedom, the Harper's Magazine "List of Embattled Books," the Library Bill of Rights, and the letter about the decision to perform "Sister Mary Ignatius Explains It All for You." (KM)

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MEMORANDUM

To: Attorney General's Commission on Pornography

From: Professor David Cohen, Queens College Graduate Library School

Re: Statement on behalf of the New York Library Association prepared for the hearings in New York City on January 22, 1986.

I. Introduction: I'm David Cohen representing the New York Library Association. This Association is a state-wide organization which represents the entire library community of almost 10,000 libraries of all kinds (school, public, academic and special) throughout New York State. Intellectual Freedom and preservation of First Amendment rights are issues of prime importance to our members. These and related issues are a constant part of the ongoing agenda of our Intellectual Freedom Round Table and Intellectual Freedom and Due Process Committee.

As a chapter of the American Library Association, the New York Library Association supports and endorses the Intellectual Freedom policies of the American Library Association. We concur by and large with the statement made before the Commission on July 24, 1985 by the ALA President, Beverly P. Lynch .

II. Library Bill of Rights: The significant priorities of ALA include intellectual freedom and access to information. These represent the sine qua non of library service to the general population and the provision of lifelong learning services to all. This approach supports the concept of the library as the marketplace of ideas and resources to fulfill the diverse needs of a multiethnic population. We can depend on libaries to provide us with the information we need and want no matter the point of view in the search for truth. This mission of guaranteeing access to the great storehouse of knowledge and information is reinforced by the thrust of the First Amendment. It protects a broad range of sexually related materials as well as sexually explicit materials which fall outside the narrow definition of obscenity as contained in the Supreme Court opinion of Miller v California (1973). The library, therefore, represents the most democratic of institutions in American society pledged to service all of us without exception.

The ALA Bill of Rights is presented here for your information. It is a valuable document for libraries and citizens to know and understand and encourage the free flow of ideas among the majorities, the minorities and individuals in the American Community. Above all it respects the rights of everyone to read whatever he or she chooses without interference or dictation from individuals, and groups, who may believe in censorship of materials they find offensive. The Library Bill of Rights contains six basic policies which focus on providing materials and information presenting all points of view with the proviso that access is not to be denied because of origin, age, background, or views. It also calls for resistance to censorship and abridgement of free expression. In addition to the constitutional Bill of Rights, we find the Library Bill of Rights an ancillary guarantee of the free exchange of ideas and information.

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Statement on behalf of the NYLA (cont'd.)

III. The Island Trees Case and Censorship in Libraries: The Island Trees Case, i.e. Pico v. Island Trees, was the first school library censorship case in American history to come before the U.S. Supreme Court. It took over six years (1975-1982) to go through the federal court system. In that time we learned much about the barriers to freedom to learn and for that matter the freedom to teach. Single-minded efforts to interfere with the process of education and/or instruction of our young people retards the search for truth. Students, teachers and parents must be partners in the goal of a well-rounded educational experience, free of bias and indoctrination. People across the country had the benefit of discussing the issues presented in the Island Trees Case.

The Supreme Court decision reminded the School Board in Island Trees that decisions to remove materials from the school library cannot be based on personal ideological reasons. Impersonal educational criteria need to be applied whenever materials are added or removed from the school library. This is a principle, if generally applied, would help to reduce the incidents of censorship reported throughout our nation. This commission could perform a great service to our democracy, if it could encourage respect for the First Amendment. Restrictions of access to materials which may be offensive simply delay the search for truth in and out of school.

Censorship is old, old as history. The idea that the government should not interfere with freedom of speech -- should even protect it - that is a recent phenomenon. This commission must make clear its intention to protect the Bill of Rights and, in particular, the First Amendment. Furthermore, the Commission should consider methods of overcoming restrictions on free speech and efforts at censorship in schools and libraries. Two random issues (attached) of the Newsletter on Intellectual Freedom published by the American Library Association show a startling number of attempts to restrict access to books, films and the theatre. Without going into the merits of each case, we simply indicate how widespread is the censorious attitude in schools and libraries. There is also the list of "Embattled Books" in Harper's Magazine, September 1984. The list (attached) was compiled by the National Coalition Against Censorship. It deserves our close attention, because it underscores the deep-seated distrust in our population of these examples of outstanding literature.

You will agree that this is not a healthy situation for our students in schools and the patrons in public libraries. These complaints must be assessed in relation to the legal definition of obscenity and pornography. We cannot condone efforts to remove books and films because some citizens object to them. It is our responsibility to educate the public that free expression is a major component of our democratic society and of course guaranteed by the First Amendment. It is not enough to tolerate the ideas we love; the same toleration must go for the ideas we hate. This is the true meaning of the First Amendment. Will this Commission support, promote and defend the right of free expression?

Statement on behalf of the NYLA (cont'd.)

I am pleased to submit a document which reflects this great need of respecting the First Amendment. It is in the form of a letter (attached) from Sean A. Fanelli, President of Nassau Community College dated June 25, 1985. It deals with community protest, especially the Catholic Community, against the performance of the play, Sister Mary Ignatius Explains It All For You. The essence of the letter and rationale in rejecting the protest appears in these three paragraphs:

1. I have weighed carefully your arguments against offering this play. They were compelling and a clear measure of your commitment to your Catholic faith. I have considered your concerns and those of others including several organizations representing Catholics in Nassau and Suffolk Counties. As a Catholic I personally find the play offensive.

2. After assessing all the negative aspects of offering this play, I find that there is an over-riding consideration that I cannot overlook - the issue of academic freedom. Academic freedom is a right we entrust to our faculty to present a universe of ideas. Our students are free to accept or reject these ideas as presented. Every effort is made to provide opportunity for opposing thoughts or view. In this instance the faculty of the Theatre Department have chosen a drama which they feel represents "theater of the absurd." Efforts will be made to provide you and others an opportunity to present views other than those of the author. Hopefully you will participate in this forum and will notify the Theater Department of your intent to do so. The number for the department is 222.7508.

3. As President of the College, were I to cancel this production, I believe that I would do you and others, especially our students, a grave disservice. Such a cancellation would have a chilling effect upon academic freedom and freedom of speech as well. It would be tantamount to censorship and would greatly curtail the free exchange of knowledge and ideas so important to a college community.

This support of free expression, I hope will be reflected by the Commission in its deliberations and final recommendations.

IV. Report of the Commission on Obscenity and Pornography, 1970.

The New York Library Association has examined the findings of the Presidential Commission on Obscenity and Pornography appointed by President Lyndon Johnson in 1968 after being directed by Congress "to investigate the gravity of [the traffic in obscenity and pornography] and to determine whether such materials are harmful to the public." The report published in 1970 contained recommendations which are relevant to our discussion today and should be taken into account by the Commission in its final report.

In summary, the Commission recommends:

1. That a massive sexual education program be launched appropriate for all segments of our society, including children, adolescents and adults.

2. That there be continued open discussion based on factual information with respect to the many issues regarding obscenity and pornography;

3. That an ongoing effort be made by government agencies to develop additional factual information on this important subject;

4. That citizens organize themselves at local, regional and national levels to aid in the implementation of the above recommendations;

5. That federal, state and local authorities should not seek by legislation or ordinances to interfere with rights of adults to read, obtain or view explicit sexual materials. With respect to young people who do not have the consent of their parents, the Commission felt that there should be some regulations concerning the sale of sexual materials to these young people. Two dissenting members, Otto N. Larsen and Marvin E. Wolfgang, both sociologists, stated that because of First Amendment considerations all existing federal, state and local obscenity statutes should be repealed including limitations with respect to children.

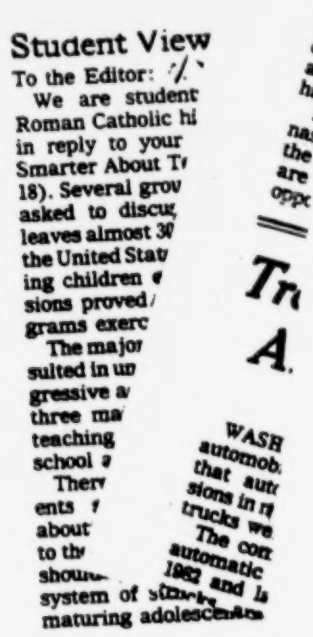
6. Finally the Commission found no evidence that the lawful distribution of explicit sexual materials to adults may have a deleterious effect upon the individual morality of American citizens and upon the moral climate in America as a whole. (While this conclusion was made 15 years ago, there is no recent evidence available to contradict this finding.)

Our Association finds the rationale of this broad approach acceptable because it supports the principle of access to a diversity of materials necessary to encourage the right to read, see and know. With respect to access by young people that still remains controversial with parents having a final say in the matter. We believe in no restrictions for minors, but parents may guide the reading habits of their children and on occasion may wish to restrict their access to library materials. That is their responsibility. The above findings of the 1970 Commission Report must be given the utmost consideration by the members of the present Commission.

V. Concluding Remarks:

Government intrusion on access to materials and information that may be sexually explicit or in fact pornographic sets a dangerous precedent. This may encourage the censors to make a laundry list of materials that they found offensive in many other ways and therefore to be restricted by government fiat. We find no compelling evidence since the 1970 Commission Report on Obscenity and Pornography that there is a clear relationship between the impact of pornographic materials and anti-social behavior. In deference to the First Amendment, we therefore urge the present Commission not to recommend governmental restriction on access to materials of any kind. As we have noted above, it would also be appropriate for the Commission to recommend the elimination of any restrictions on the content of materials that now exist. In this conclusion, we fully concur with the statement made by the American Library Association.

VI. Postscript: Much has been said about the need for a comprehensive program of sex education in an out of school, so we can handle the availability of sexually explicit materials with confidence and maturity. A letter to the New York Times dated January 2, 1986 on page A18 provides an intelligent proposal by the students at St. Peter's Preparatory School in Jersey City, which they guarantee would have an impact on the rate of teenage pregnancies. For your earnest consideration, here is the letter below:



Student View

To the Editor:

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Basic sexual education should be taught to the teen-ager during his or her high school years. This includes the subject of intercourse, along with the phases of pregnancy. Birth-control information should be presented also. It was decided that the public school systems should teach sex ed in an objective manner, because of the many different types of values of the students. However, within the private (religious) schools, such classes can be taught with the school's religious morals as an auxiliary subject.

Lastly, the media should offer more public-service advertisements. It seems that in this country sex sells. To combat capitalistic sex exploitation, the media should be obligated to give equal time to public-service announcements at appropriate times.

These three ideas, we believe, can have an impact on the rate of teenage pregnancies.

MARTIN HART
CHARLES BIBLE, MICHAEL DOWNEY
STEVEN HUMMEL, JOHN APRUZZESE
Jersey City, Dec. 2, 1985

The writers are students at St. Peter's Preparatory School.

VII. Appendix:
1. Pages from the Newsletter in Intellectual Freedom, July & Sept. 1985
2. (List) of "Embattled Book"
3. Library Bill of Rights
4. Letter from Sean A. Fanelli, Pres. Nassau Community College

VIII. References:

1. Report of the Commission on Obscenity and Pornography. Bantam Books, 1970, 700 pp.
2. Lobbying for Freedom in the 1980s, Edited by Kenneth P. Norwich, G.P. Putnam's Sons, 1983, 300 pp. See pp. 204-209 for "The Obscenity Commission."

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Views of contributors to the **Newsletter on Intellectual Freedom** are not necessarily those of the editors, the Intellectual Freedom Committee, or the American Library Association.

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name of Nelson Mandela," the best known black prisoner of South Africa's apartheid regime. Mandela, a Johannesburg lawyer and civil rights leader, has been imprisoned since 1964. Wonder won his Oscar for Best Movie Song. Reported in: *Baltimore Sun*, March 27.

Seoul, South Korea

Police raided 28 printing shops and bookstores in Seoul May 9, confiscating books and pamphlets described as seditious and supportive of leftist ideologies, officials of the Culture and Information Ministry said. The government said a drive against such materials would continue through May 21 throughout the country. Reported in: *Los Angeles Times*, May 11.

Istanbul, Turkey

Playwrights Arthur Miller and Harold Pinter were censored from the pages of the Turkish press March 23 after an Istanbul press conference in which they were strongly critical of Turkey's human rights record. The two vice-presidents of the International PEN Club, a world-wide organization that promotes the rights of artists and writers, came to Turkey on a fact-finding mission. During their five-day stay they spoke with more than a hundred Turkish intellectuals, with former prison inmates, politicians and diplomats.

At the press conference wrapping up their visit, Miller said, "It is almost impossible to discuss certain questions in the press here," as if to foreshadow the ban on the conference handed down by the local martial law government several hours later. Pinter said that both writers were convinced that there is systematic torture in Turkey. "Our conclusion is that torture, despite the protestations and denials, is in fact widespread and systematic in military prisons and police stations in Turkey," he said.

Miller further explained that, "At a certain time in history the court permitted what was called 'spectral evidence,' which meant that it was not necessary . . . to prove that an accused person had committed an action. It was only necessary to prove that he had thought of it." Miller charged that in Turkey "today people are brought into prisons on the basis of what they are alleged to be thinking." Reported in: *Washington Post*, March 24.

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HARPER'S

HARPER'S MAGAZINE SEPTEMBER 1984

[List]

EMBATTLED BOOKS

From a list of books currently or recently involved in censorship litigation, compiled by the National Coalition Against Censorship. September 8–15 is Banned Books Week.

Alexander, Rae Pace, and Julius Lester, eds. *Young and Black in America* (Elk River, Minnesota).

Allen, Donald, ed. *The New American Poetry* (Aurora, Colorado).

Anonymous. *Go Ask Alice* (Warsaw, Indiana; Island Trees, New York).

Archer, Jerome W., and A. Schwartz, eds. *A Reader for Writers* (Island Trees, New York).

Blatty, William P. *The Exorcist* (Aurora, Colorado).

Blume, Judy. *Are You There God? It's Me, Margaret; Deenie; Then Again, Maybe I Won't* (Elk River, Minnesota).

Boston Women's Health Book Collective. *Our Bodies, Ourselves* (Helena, Montana).

Brautigan, Richard. *The Abortion: An Historical Romance; The Pill Versus the Springhill Mine Disaster; A Confederate General from Big Sur; Rommel Drives On Deep into Egypt; Trout Fishing in America* (Anderson, California).

Burgess, Anthony. *A Clockwork Orange* (Aurora, Colorado).

Burroughs, William, and Allen Ginsberg. *The Yage Letters* (Aurora, Colorado).

Childress, Alice. *A Hero Ain't Nothin' but a Sandwich* (Island Trees, New York).

Cleaver, Eldridge. *Soul on Ice* (Island Trees, New York).

Ferlinghetti, Lawrence. *Coney Island of the Mind; Starting from San Francisco* (Aurora, Colorado).

Ginsberg, Allen. *Kaddish and Other Poems* (Aurora, Colorado).

Heller, Joseph. *Catch-22* (Strongsville, Ohio).

Hughes, Langston, ed. *The Best Short Stories by Negro Writers* (Island Trees, New York).

Kesey, Ken. *One Flew Over the Cuckoo's Nest* (St. Anthony, Idaho).

Larrick, Nancy, and Eve Merriam, eds. *Male & Female Under 18* (Chelsea, Massachusetts).

Levin, Ira. *Rosemary's Baby* (Aurora, Colorado); *The Stepford Wives* (Warsaw, Indiana).

Malamud, Bernard. *The Fixer* (Island Trees, New York).

Mann, Patrick. *Dog Day Afternoon* (Vergennes, Vermont).

Morris, Desmond. *The Naked Ape* (Island Trees, New York).

O'Hara, Frank. *Lunch Poems* (Aurora, Colorado).

Plath, Sylvia. *The Bell Jar* (Warsaw, Indiana).

Price, Richard. *The Wanderers* (Vergennes, Vermont).

Simon, Sidney. *Values Clarification* (Warsaw, Indiana).

Thomas, Piri. *Down These Mean Streets* (Queens, New York; Island Trees, New York).

Vonnegut, Kurt. *Cat's Cradle; God Bless You, Mr. Rosewater* (Strongsville, Ohio); *Slaughterhouse-Five* (Island Trees, New York).

Waxman, Stephanie. *What Is a Girl? What Is a Boy?* (Elk River, Minnesota).

Wright, Richard. *Black Boy* (Island Trees, New York).

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

1. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

3. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

4. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

5. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

6. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 18, 1948.
Amended February 2, 1961, June 27, 1967, and January 23, 1980,
by the ALA Council.

Nassau Community College

Garden City, New York 11530

516-222-7205

Sean A. Fanelli
President

June 25, 1985

Mrs. Eileen F. Brennan
1397 Lakeside Drive
Wantagh, New York 11793

Dear Mrs. Brennan:

You recently wrote to me deploring the decision of Nassau Community College's Theater Department to offer the play, Sister Mary Ignatius Explains It All For You. You asked that the play not be performed in a college supported by tax revenues.

I have weighed carefully your arguments against offering this play. They were compelling and a clear measure of your commitment to your Catholic faith. I have considered your concerns and those of others including several organizations representing Catholics in Nassau and Suffolk Counties. As a Catholic I personally find the play offensive.

After assessing all the negative aspects of offering this play, I find that there is an over-riding consideration that I cannot overlook - the issue of academic freedom. Academic freedom is a right we entrust to our faculty to present a universe of ideas. Our students are free to accept or reject these ideas as presented. Every effort is made to provide opportunity for opposing thoughts or views. In this instance the faculty of the Theater Department have chosen a drama which they feel represents "theater of the absurd." Efforts will be made to provide you and others an opportunity to present views other than those of the author. Hopefully you will participate in this forum and will notify the Theater Department of your intent to do so. The number for the department is 222-7508.

I assure you that the play was not selected by the Theater Department with any intention to offend the Catholic community or to subject our Catholic faith and members of religious communities to ridicule.

As President of the College, were I to cancel this production, I believe that I would do you and others, especially our students, a grave disservice. Such a cancellation would have a chilling effect upon academic freedom and freedom of speech as well. It would be tantamount to censorship and would greatly curtail the free exchange of knowledge and ideas so important to a college community.

The issue of controversial subject matter being presented in a public, tax supported institution has been raised. I can find no more appropriate forum than a public college for such a discussion. Tax dollars do not lessen our responsibility in this area, rather they increase it. It then becomes our duty to strive to present the material with a proper perspective and with balance. I am sure that it is the intent of the Theater Department to do this.

I recognize your right to protest this decision, a right that is derived from the very issue you are addressing. I apologize on behalf of the College for any hurt you may experience as a result of the Theater Department's production of this play. While I do not agree with the contents of this play, I will defend the right of the faculty to produce it. To do anything less would be a denial of an important and necessary right in academe and in our society.

Sincerely,

Sean A. Fanelli
President

SAF:mao
cc:Governor Mario Cuomo
Nassau County Executive Francis T. Purcell
Bishop John R. McGann
Nassau County Board of Supervisors
Nassau Community College Board of Trustees
Professor Victor Abravaya